

**Standard Operating Procedure (SOP)
regarding handling of Contempt
proceedings including other Court
Cases in the State Government
matters.**

**Government of Maharashtra
Law and Judiciary Department
Government Circular No : VIP NO. 21-2023/E**
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai- 400032.
Date: 26/12/2024

Introduction

The increasing Contempt Petitions against the State Government is a matter of serious concern in recent days. The learned Advocate General also suggested that there is a need for an effective mechanism to deal with Contempt Petitions filed against the Government of Maharashtra. Even the Government Officers face embarrassing situation in the Courts at the time of hearing of the Contempt Petitions. Therefore, it was under consideration of the Government to frame Standard Operating Procedure (SOP) for dealing with Contempt Petitions.

Circular

1. Accordingly, the Standard Operating Procedure (SOP) is appended to the Circular as Annexure-A.
2. All the departments to ensure that the Standard Operating Procedure (SOP) is followed scrupulously.
3. The Standard Operating Procedure (SOP) also be brought to the notice of the offices/undertakings under the administrative control of the respective Department.

This Circular of Maharashtra Government is available at the website www.maharashtra.gov.in Reference no. for this is 202412261715274612 This Circular has been signed digitally.

**(SUJATA SAUNIK)
Chief Secretary
Government of Maharashtra**

Copy for information and necessary action to:-

1. All Additional Chief Secretaries/Principal Secretaries/ Secretaries Maharashtra State, Mantralaya, Mumbai.
2. The Office of the Ld. Advocate General, Maharashtra State, Mumbai.
3. The Joint Secretary, Law and Judiciary Department 'A' Branch/'E' Branch/'M' Branch/Nagpur/Aurangabad.

4. The Law Officer to the Hon'ble Chief Secretary, Maharashtra State, Mantralaya, Mumbai.
5. The Nodal Officer of all Departments, Mantralaya, Mumbai.
6. The Government Advocate, Supreme Court, State of Maharashtra, New Maharashtra Sadan, Kasturba Gandhi Marg, New Delhi.
7. The Government Pleader, High Court of Judicature at Bombay, Original Side, Mumbai.
8. The Government Pleader, High Court of Judicature at Bombay, Appellate Side (Writ Cell), Mumbai.
9. The Government Pleader, High Court of Judicature at Bombay, Bench at Nagpur.
10. The Government Pleader, High Court of Judicature at Bombay, Bench at Aurangabad.
11. The Chief Presenting Officer, Maharashtra Administrative Tribunal, Mumbai.
12. The Chief Presenting Officer, Maharashtra Administrative Tribunal, Bench at Nagpur.
13. The Chief Presenting Officer, Maharashtra Administrative Tribunal, Bench at Aurangabad.

ANNEXURE-A

STANDARD OPERATING PROCEDURE (SOP)

Regarding handling of Contempt proceedings and the Court Cases involving Government

PURPOSE

To provide a SOP for handling contempt proceedings against the Government of Maharashtra.

SCOPE

This SOP would be applicable to all the contempt proceedings including the Court Cases filed by or against Government before the Hon'ble Supreme Court, High Court, Maharashtra Administrative Tribunal and all other Courts /Tribunals hearing the matters under their respective appellate and/or original jurisdiction including its Benches at Nagpur and Aurangabad.

OUTCOME

- SOP aims to provide/facilitate either due compliance of Judicial orders by the Government or to challenge them so as to minimize scope for contempt of Court/Tribunal.
- SOP aims to collect data regarding pending contempt proceedings and the Court Cases filed by or against the State Government of all Departments in Mantralaya and consolidate the same for tracking and appropriate action in a time bound manner.
- SOP aims monitoring the entire process, wherein Contempt Petitions are filed, by the Nodal Officer designated by the Department or Law Officer posted in the Department as the case may be.

CONTEMPT PROCEEDINGS

If a party wilfully disregards the decision of Court/Tribunal in a legal matter, the Courts as well as the Tribunals are empowered to punish such party in Contempt Proceedings. Contempt can be of two types, namely:

- A) Civil Contempt: Wilful disobedience of a Judgment, Order, Decree or directions of Court/ Tribunal.

B) Criminal Contempt: An act or publication of some material which interferes/obstructs with administration of justice; or, an act which lowers the dignity of Court/Tribunal or scandalizes it in some manner.

SUGGESTED COURSE OF ACTION TO AVOID CONTEMPT

There are several ways in which the Departments can avoid contempt of Court/Tribunal. Some of these include:

Communication by Government Pleader/Chief Presenting Officer: Adverse decision to be communicated by the concerned Government Pleader/Chief Presenting Officer to the concerned Administrative Department along with his opinion as per the provisions of the Rules for the Conduct of the Legal Affairs of Government 1984.

Comply with Court/Tribunal Orders: Another key way to avoid contempt of Court/Tribunal is by complying the Court/Tribunal orders timely. Upon compliance, the same be communicated to the Office of the Government Pleader.

Seeking Extension of Time: If it is felt that it is not possible to implement the Order/Judgment within stipulated timeframe, application for extension of time for compliance be moved before the Court/Tribunal concerned, so as to avoid Contempt Proceedings in consultation with the Government Pleader/Chief Presenting Officer.

Appeal/Review/Revision/Writ Petition: If the Department is aggrieved by the decision of a particular Court/Tribunal, it is required to challenge the decision before a superior court within a prescribed or reasonable time frame to avoid contempt proceedings. In that case, the Department is required to send a proposal to the Law and Judiciary Department along with all relevant documents, affidavits, replies filed by the Department, and the opinion of the Government Pleader/Presenting Officer who appeared in the matter along with grounds for appeal within limitation through Law Officer of the Concerned Administrative Department, if any.

Seek Legal Advice: If the Department is not sure about further course of action, it is important to seek legal advice from the Law and Judiciary Department and the Government Pleader/ Presenting Officer who appeared in the matter.

The advisory Departments i.e. General Administration Department, Finance Department and the Law and Judiciary Department to expedite its remarks whenever reference is moved related to contempt petition.

Maintain Professionalism: It is important to maintain professionalism in all interactions with the Court/Tribunal.

Respect the Authority of the Court/Tribunal: One of the most important ways to avoid contempt of Court/Tribunal is to show respect to the authority of the Court/Tribunal.

STANDARD OPERATING PROCEDURE

- I. All Administrative Departments shall designate the responsible Officer from the Department as Nodal Officer, in cases where Law Officer is not posted. Such designated Nodal Officer or Law Officer posted in the Department shall collect details of the contempt petitions against the particular Administrative Department pending before the Hon'ble Supreme Court, Hon'ble Bombay High Court (Principal seat and it's Benches at Aurangabad and Nagpur) in coordination with the concerned Government Pleader, so also the Maharashtra Administrative Tribunal at Bombay and it's Benches at Aurangabad and Nagpur in coordination with the Chief Presenting Officers and also the details of the Court Cases involving Government.
- II. The Officers of all the Administrative Departments to invariably communicate about the Contempt Notices received in the Department immediately to the Nodal Officer or Law Officer posted in that Department.
- III. The Nodal Officer/Law Officer shall upon receipt of the details of the contempt petitions shall make a list and obtain the status of the case from the respective officer of the concerned Desks of the Department.
- IV. In cases where the Department has a justifiable reason for their inability to do the needful, an effort be made to persuade the Department to file a detail affidavit before the Hon'ble Court or the Tribunal, at the earliest to that effect.
- V. The Nodal Officer designated by the Department, or the Law Officer posted at the Department as the case may be, shall prepare list and monitor the cases where the Department has been impleaded as party to the contempt proceeding. He shall convene meetings with the concerned Desk Officers of the Department and the concerned Government Pleader/Assistant Government Pleader/Presenting Officer/Chief Presenting Officer, as the case may be, and make every endeavour to prevent extreme consequences for want of compliance of a particular order, and to monitor the matter on regular basis.
- VI. The Law Officer posted in the office of the Hon'ble Chief Secretary shall prepare list and monitor the cases wherein the Hon'ble Chief Secretary has been impleaded as party to the contempt proceeding. He shall convene meetings with

the concerned Department in contempt and the concerned Government Pleader/Assistant Government Pleader/Presenting Officer/Chief Presenting Officer, as the case may be, and make every endeavour to prevent any extreme consequences for want of compliance of a particular order, and follow up the matter regularly till end.
